

ESTTA Tracking number: **ESTTA326367**Filing date: **01/12/2010**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	ChoiceStream, INC.		
Entity	Corporation	Citizenship	Delaware
Address	210 Broadway Street 4th Floor Cambridge, MA 02139 UNITED STATES		

Attorney information	Phi Lan M. Tinsley K&L Gates LLP State Street Financial Center One Lincoln Street Boston, MA 02111 UNITED STATES tmboston@klgates.com, philan.tinsley@klgates.com Phone:6172613224
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Registration Subject to Cancellation

Registration No	3471575	Registration date	07/22/2008
Registrant	Edvert, Inc. 275 Battery St., Suite 1150 San Francisco, CA 94111 UNITED STATES		

Goods/Services Subject to Cancellation


Class 035. First Use: 2007/05/02 First Use In Commerce: 2007/07/04
All goods and services in the class are cancelled, namely: Internet advertising services; Advertising services


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Related Proceedings	Opposition No. 91193364

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3657301	Application Date	12/23/2008
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	REALRELEVANCE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/01/29 First Use In Commerce: 2006/01/29 Targeted advertising services, namely, promotion of the goods and services of others by means of a global computer network; Advertising services, namely, promoting the goods and services of others by providing recommendations based on consumer's click and purchase data; promoting the goods and services of others by providing a web site at which users can link to information pertaining to the goods and services offered by advertisers; dissemination of advertising matter; dissemination of advertising matter for others via the Internet

U.S. Registration No.	3378718	Application Date	08/22/2006
Registration Date	02/05/2008	Foreign Priority Date	NONE
Word Mark	REALRELEVANCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2006/01/29 First Use In Commerce: 2006/01/29 providing online non-downloadable software for use by retailers and online entertainment providers in providing goods and services that are customized to user preferences		

Attachments	77639087#TMSN.jpeg (1 page)(bytes) 78957619#TMSN.jpeg (1 page)(bytes) Petition to Cancel.pdf (37 pages)(709588 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address

record by First Class Mail on this date.

Signature	/philan m. tinsley/
Name	Phi Lan M. Tinsley
Date	01/12/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 3,471,575
For the mark RICHRELEVANCE
Date of Registration: July 22, 2008

ChoiceStream, Inc.,)	
)	
)	
Petitioner,)	
)	
v.)	PETITION TO CANCEL
)	Cancellation No.:
RichRelevance, Inc.,)	
)	
Registrant.)	
)	

PETITION TO CANCEL

ChoiceStream, Inc. ("Petitioner") a corporation organized and existing under the laws of Delaware, is located at 210 Broadway Street, Cambridge, Massachusetts 02139.

To the best of Petitioner's knowledge, the name and address of the current owner of Registration No. 3,471,575 is RichRelevance, Inc. ("Registrant"), a corporation established under the laws of Delaware and having an address at 275 Battery Street, Suite 1150, San Francisco, California 94062. See attached TARR printout on January 12, 2010 at **Exhibit A**.

Petitioner believes that it will be damaged by the above-identified registration as it relates to the recited services in International Class 35, and hereby petitions to cancel the registration.

As grounds for cancellation, Petitioner alleges that:

1. Petitioner owns all right, title and interest in and to the REALRELEVANCE® Trademark Registration No. 3,657,301 in International Class 35 for "[t]argeted advertising

services, namely, promotion of the goods and services of others by means of a global computer network; advertising services, namely, promoting the goods and services of others by providing recommendations based on consumer's click and purchase data; promoting the goods and services of others by providing a web site at which users can link to information pertaining to the goods and services offered by advertisers; dissemination of advertising matter; dissemination of advertising matter for others via the Internet.” This registration with a date of first use of January 29, 2006 was granted on July 21, 2009 and is valid and subsisting on the Principal Register. See attached copy of the registration certificate at **Exhibit B**.

2. Petitioner also owns all right, title and interest in and to the REALRELEVANCE[®] mark and United States Registration No. 3,378,718, in International Class 42 for “providing online non-downloadable software for use by retailers and online entertainment providers in providing goods and services that are customized to user preferences.” This registration, with a date of first use in commerce of January 29, 2006 was granted on February 5, 2008 and is valid and subsisting on the Principal Register. See attached copy of the registration certificate at **Exhibit C**.

3. Petitioner adopted and has continuously used in commerce the REALRELEVANCE[®] mark in connection with advertising goods and services, prior to Registrant’s alleged date of first use (July 4, 2007) or date of first use in commerce (May 2, 2007) for the alleged mark in Registration No. 3,471,575 (RICHRELEVANCE).

4. Since 2002 Petitioner has created, marketed, distributed, and sold in interstate commerce targeted advertising and marketing technology and provided related services, similar or identical to the services identified in the alleged mark of Registration No. 3,471,575 (RICHRELEVANCE).

5. Since at least as early as 2006 through the present day, Petitioner has sold and continues to sell its customized cross-marketing and advertising technology and services in commerce under the REALRELEVANCE® mark in the United States. See attached printout of products sold in commerce under the trademark REALRELEVANCE® at **Exhibit D**.

6. Upon information and belief, Registrant is in the business of providing internet advertising services by creating, selling and or distributing, *inter alia*, software which provides collaborative filtering and optimization services to enhance online shopping and ecommerce sites, these services are identical or highly similar to the business and services provided by Petitioner. Moreover, Petitioner and Registrant are competitors operating in the same industry. See Registrant's online web page describing its company, printed on January 11, 2010 at **Exhibit E**.

7. Petitioner has expended considerable time, effort and expense in promoting its REALRELEVANCE® mark and the goods and services sold under this mark. The purchasing public has come to know, rely upon, and associate Petitioner's REALRELEVANCE® mark with Petitioner and to recognize Petitioner's goods and services by its federally registered trademark. Moreover, by virtue of the excellence of the products and services sold under the REALRELEVANCE® mark and the valuable reputation and goodwill associated with the mark, the REALRELEVANCE® mark is well known in the United States. Petitioner has exceedingly valuable goodwill established in its REALRELEVANCE® mark.

8. Petitioner has received industry recognition and awards for its innovative and revolutionary advertising and marketing technology. In 2005, Petitioner won the Massachusetts Innovation and Technology Exchange ("MITX") for Customer Relationship technology for its innovative one-to-one personalization and recommendation technology. In 2009, Petitioner was

again recognized by MITX for its REALRELEVANCE® targeted advertising product which creates personalized display ads and landing pages for each consumer. See attached printouts from MITX website dated January 11, 2010 at **Exhibit F**.

9. The alleged mark of Registration No. 3,471,575, (RICHRELEVANCE) so resembles Petitioner's REALRELEVANCE® mark that it is confusingly similar in sight, sound and meaning that it is likely to cause confusion or mistake, or to deceive consumers with consequent injury to Petitioner, the consuming public, and the trade.

10. Use of the alleged mark of Registration No. 3,471,575 (RICHRELEVANCE) by the Registrant will result in irreparable damage to Petitioner's reputation and goodwill, since consumers are likely to attribute the source of the Registrant's services to the Petitioner.

11. If the Registrant is permitted to retain the registration sought to be cancelled, consumers will be or likely will be confused as to the source of goods and services, and Petitioner's right to enjoy the free and exclusive use of its REALRELEVANCE® mark in connection with its goods and services will be lost, all to the great injury of Petitioner.

12. Prior to the filing of this Petition for Cancellation, Petitioner has used the REALRELEVANCE® mark in commerce in the United States on and in connection with the foregoing goods and services prior to the Registrant's date of first use (May 2, 2007) and date of actual use (July 4, 2007) for the alleged mark of Registration No. 3,471,575.

13. Notwithstanding Petitioner's prior right in and to the REALRELEVANCE® trademark, Registrant on information and belief, received registration for the alleged mark of Registration No. 3,471,575 (RICHRELEVANCE) for "internet advertising services; advertising services" in International Class 35 on July 22, 2008.

14. On information and belief, David Selinger, Applicant's Chief Executive Office and Co-Founder, and Tyler Kohn, Applicant's Vice President of Engineering and Co-Founder were consultants with ChoiceStream. Selinger and Kohn assisted in developing cross-marketing technology and services for Petitioner from August 2006 to May 2007, during which time Petitioner used the mark REALRELEVANCE® in connection with its products. See Doug Feick Affidavit at **Exhibit G**.

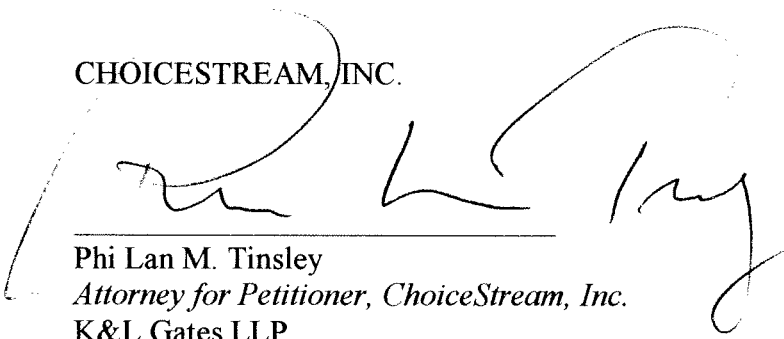
15. Petitioner contacted Registrant, namely Selinger, Todd Pearson, Applicant's Chief Customer Officer, and/or Bill Growney, Registrant's General Counsel by telephone, on or about November 2008, January 2009, February 2009, and October 2009. During these phone conversations, Petitioner discussed the strong likelihood of confusion between the REALRELEVANCE® trademark and the alleged mark RICHRELEVANCE. In particular, Petitioner raised the potential for injury and confusion to ChoiceStream given that Registrant markets and sells products and services under the alleged mark RICHRELEVANCE to the same customers and in the same industries as those who purchase and/or use the products under the mark REALRELEVANCE®. See Doug Feick Affidavit at **Exhibit G**.

16. Upon information and belief, when Registrant adopted the mark shown in the Registration No. 3,471,575 it already was aware of Petitioner's well-known mark and adopted the mark shown for the purpose of (a) launching and promoting its products by siphoning Petitioner's valuable reputation and goodwill; and/or (b) suggesting an affiliation between it and Petitioner through a license or otherwise.

WHEREFORE, Petitioner believes it will be injured and damaged by the continued registration of Registrant's mark RICHRELEVANCE as shown in Registration No. 3,471,575, and requests that this petition for cancellation be sustained and Registration No. 3,471,575 cancelled.

Date: January 12, 2010

CHOICESTREAM, INC.



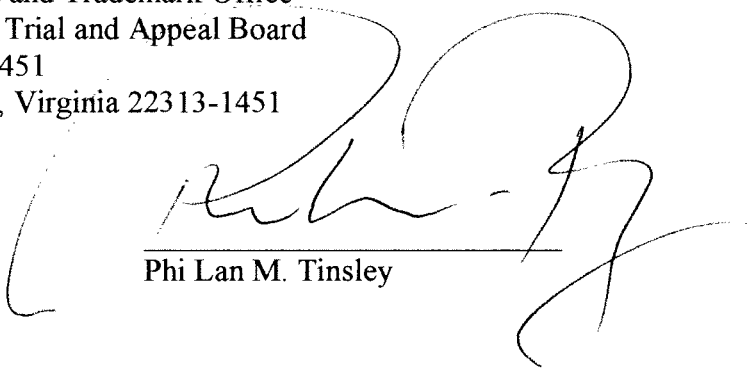
Phi Lan M. Tinsley
Attorney for Petitioner, ChoiceStream, Inc.
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, MA 02111-2950
Phone: 617-261-3100

CERTIFICATE OF SERVICE

I do hereby certify on January 12, 2010 I filed via electronic means (ESTTA) the foregoing PETITION FOR CANCELLATION with the following:

U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

January 12, 2010



Phi Lan M. Tinsley

CERTIFICATE OF SERVICE BY MAIL

I do hereby certify on January 12, 2010 I mailed by United States mail, first class postage prepaid, a true and correct copy of this PETITION FOR CANCELLATION to the last address known by the undersigned and the last address displayed on the United States Patent and Trademark Office TARR database, as follows:

Farah P. Bhatti, Esq.
McDermott Will & Emery LLP
18191 Von Karman Avenue, Suite 500
Irvine CA 92612-7108

January 12, 2010



Phi Lan M. Tinsley

BOS-1365493 v1

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2010-01-12 12:15:36 ET

Serial Number: 77345817 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3471575

Mark

richrelevance

(words only): RICHRELEVANCE

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2008-07-22

Filing Date: 2007-12-06

Transformed into a National Application: No

Registration Date: 2008-07-22

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-07-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Edvert, Inc.

DBA/AKA/TA/Formerly: DBA richrelevance

Address:

Edvert, Inc.
275 Battery St., Suite 1150
San Francisco, CA 94111

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=77345817>

01/12/2010

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

Phone Number: 415-956-1947

Fax Number: 650-618-2619

GOODS AND/OR SERVICES

International Class: 035

Class Status: Active

Internet advertising services; Advertising services

Basis: 1(a)

First Use Date: 2007-05-02

First Use in Commerce Date: 2007-07-01

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-09-16 - Applicant/Correspondence Changes (Non-Responsive) Entered

2008-09-16 - TEAS Change Of Owner Address Received

2008-07-22 - Registered - Principal Register

2008-07-16 - Assignment Of Ownership Not Updated Automatically

2008-05-06 - Published for opposition

2008-04-16 - Notice of publication

2008-03-29 - Law Office Publication Review Completed

2008-03-29 - Assigned To LIE

2008-03-17 - Approved for Pub - Principal Register (Initial exam)

2008-03-17 - Assigned To Examiner

2007-12-12 - Notice Of Pseudo Mark Mailed

2007-12-11 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

Farah P. Bhatti, Esq.

McDermott Will & Emery LLP

18191 Von Karman Avenue, Suite 500

Irvine CA 92612-7108

Phone Number: (949) 757-7148

Fax Number: (949) 851-9348

EXHIBIT B

Int. Cl.: 35

Prior U.S. Cls.: 100, 101 and 102

Reg. No. 3,657,301

United States Patent and Trademark Office

Registered July 21, 2009

**SERVICE MARK
PRINCIPAL REGISTER**

RealRelevance

CHOICESTREAM. INC. (DELAWARE CORPORATION)
210 BROADWAY, 4TH FLOOR
CAMBRIDGE, MA 02139

FOR: TARGETED ADVERTISING SERVICES, NAMELY, PROMOTION OF THE GOODS AND SERVICES OF OTHERS BY MEANS OF A GLOBAL COMPUTER NETWORK; ADVERTISING SERVICES, NAMELY, PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING RECOMMENDATIONS BASED ON CONSUMER'S CLICK AND PURCHASE DATA; PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEB SITE AT WHICH USERS CAN LINK TO INFORMATION PERTAINING TO THE GOODS AND SERVICES OFFERED BY ADVERTISERS; DISSEMINATION OF ADVERTISING MATTER; DISSE-

MINATION OF ADVERTISING MATTER FOR OTHERS VIA THE INTERNET, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-29-2006; IN COMMERCE 1-29-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,378,718.

SER. NO. 77-639,087, FILED 12-23-2008.

KATHERINE E. HALMEN, EXAMINING ATTORNEY

EXHIBIT C

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,378,718

Registered Feb. 5, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

RealRelevance

CHOICESTREAM. INC. (DELAWARE CORPORATION)
4TH FLOOR
210 BROADWAY
CAMBRIDGE, MA 02139

FOR: PROVIDING ONLINE NON-DOWNLOADABLE SOFTWARE FOR USE BY RETAILERS AND ONLINE ENTERTAINMENT PROVIDERS IN PROVIDING GOODS AND SERVICES THAT ARE CUSTOMIZED TO USER PREFERENCES , IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 1-29-2006; IN COMMERCE 1-29-2006.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-957,619, FILED 8-22-2006.

PATRICIA EVANKO, EXAMINING ATTORNEY

EXHIBIT D



Overview

Advertising

Recommendations

eMail

Working with Us

Drive new sales, increase conversion and boost loyalty with personalized recommendations that motivate consumers to take action.

RealRelevance® Advertising

Create new occasions to purchase with personalized display ads and landing pages for each consumer.

RealRelevance® Recommendations

Lift revenue throughout your store with personalized product recommendations on product detail pages, in shopping carts, on order confirmations and more.

RealRelevance® eMail

Earn more revenue from your transaction emails and marketing campaigns with personalized product promotions and next-sells.

RealRelevance Advertising

Overview

Advertising

Recommendations

eMail

Working with Us

ChoiceStream RealRelevance® Advertising boosts revenue for retailers with dynamic, personalized ads that combine the in-market relevance of search marketing with the broad reach and frequency of display advertising.

ChoiceStream ads may look similar to other ads, but only ChoiceStream ads offer personally relevant product recommendations as well as the 'one-two punch' of both personalized ads and personalized landing pages. This unique combination is proven to deliver more pre-shop engagement and more online purchases than any other dynamic ad solution on the market, increasing revenue by up to 5X.

Actual Customer Experience*

3-5 times increase in revenue per 1000 impressions

154% increase in click-through rate

66% increase in conversion rate



Attention
Coremetrics
Customers

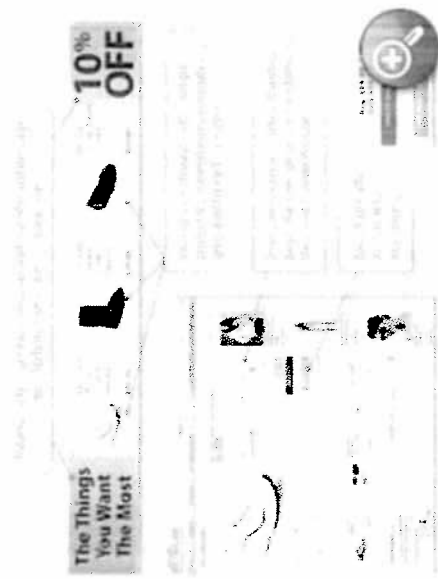
Get up and running in days
without relying on IT »


How It Works

We use your consumer shopping data — the best predictor of future purchases — and our patent-pending personalization engine to dynamically generate ads and landing pages with personalized product recommendations for every shopper. *[It is important to note that while we do analyze consumers' shopping data, we never collect **any** personally identifiable information. So PII stays private and secure.]*

These recommendations create new occasions to purchase by combining the products shoppers are most likely to be in-market for now with individually targeted messages and offers that really resonate. And, best of all, they layer on the media you're already buying to increase the yield of your existing ad spend. Or, if you're not currently doing display advertising, we can buy your inventory for you through our relationship with OpenX.

The result is personalized ads that connect with your consumers and can be used to dramatically improve the results of all your ad campaigns, including





Watch the ChoiceStream
RealRelevance Advertising Demo ▶

prospecting, retargeting and affiliate marketing.



With RealRelevance Advertising, you can:

- **Boost net new orders from retargeting campaigns by 200-300%** by creating new opportunities to purchase.
- **Acquire new customers and increase foot traffic to your stores** by promoting the products shoppers are in-market for now.
- **Advertise local prices on local inventory** to drive in-store sales.
- **Increase campaign revenue up to 5X** with the powerful combination of personalized ads and landing pages.
- **Gain the broadest possible reach** with a solution that can be run on any ad inventory or network.
- **Analyze all of your ad metrics in one place** through easy integration with 3rd-party ad servers and analytics providers.



	Behavioral Targeting Networks	Dynamic Ad Generation Tools	ChoiceStream RealRelevance Advertising
Leverage page views, clicks and browsing data	✓		✓
Leverage <i>commerce data</i> (e.g., purchases, cart abandons, and searches)			✓
Target broad-based audience categories and segments	✓		✓
Target <i>individuals</i> with personalized products, messages, and offers			✓
Offer dynamic ad generation to create personalized ads on the fly		✓	✓
Automatically traffic and manage your ads and optimize results			✓
Advertise local prices on local, in-store inventory			✓

Working with ChoiceStream

- **Advertisers**
Get up and running in days
- **Agencies**
Offer personalized ads with no hassle

Contact Us

ChoiceStream RealRelevance Advertising offers a whole new way to drive business online. Contact us and find out more.

Name

Company

Email

Submit

* Source: Actual results based on A/B tests comparing advertiser's best-performing display ads against ChoiceStream ads with personalized product recommendations.

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ChoiceStream® and RealRelevance® are registered trademarks of ChoiceStream, Inc. ...

RealRelevance Recommendations

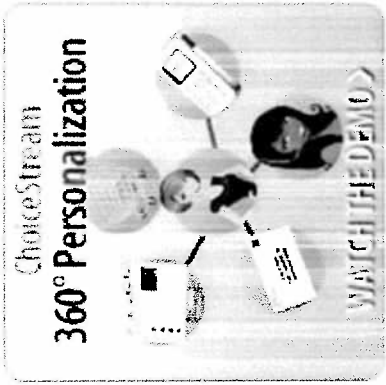
Overview

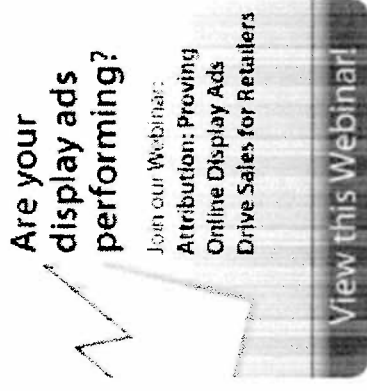
Advertising

Recommendations

eMail

Working with Us





Key benefits include:

- **Higher conversion** on product detail pages, category pages, and more with relevant product recommendations for each consumer based on your actual shopping data.
- **Increased AOS** on shopping carts with dynamic cross-sell recommendations that go beyond simply offering complementary products (e.g., batteries with a camera purchase).
- **More successful next-sells** with personalized product recommendations on confirmation pages or emails.
- **New occasions to purchase and more revenue** from your category and home pages.
- **Improved retention** via personalized email marketing that drives shoppers back to your store.
- **Insight into what's working and why** with sophisticated, detailed reporting.
- **Best-of-breed technology** that powers more Top 50 retailers than all of our competitors combined.

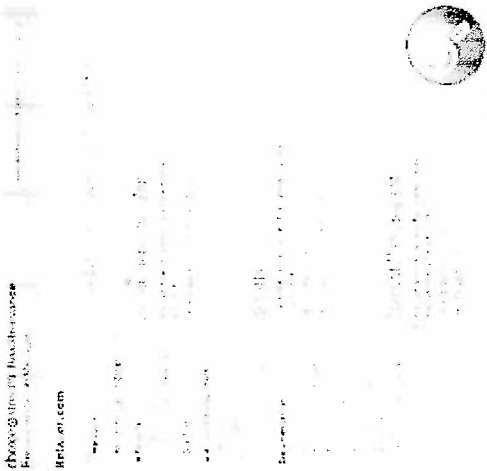
How it Works

ChoiceStream analyzes your actual shopping data, including online and offline shopping data; loyalty and reward card data; email responses; 3rd party data; etc. We combine this data with our patent-pending engine to dynamically generate personalized product recommendations for product detail pages, shopping carts, search and affiliate marketing, emails and more. These personalized recommendations are proven to grab consumers' attention and motivate them to purchase.

Recommendation Manager Puts You in Control

Our web-based Recommendation Manager puts merchandising controls at your fingertips, including boosts, blacklists, defaults and overrides. And, a powerful reporting dashboard keeps you on top of what's working and why.

ChoiceStream helps more Top 50 retailers drive higher revenues with personalized product recommendations than all of our competitors combined. Let us show you how we can drive sales for you.



Working with ChoiceStream

It's easy to create automated, personalized marketing and merchandising throughout your site. [Find out more...](#)

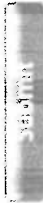
Contact Us

Contact us to find out how you can drive more revenue with ChoiceStream RealRelevance Recommendations.

Name

Company

Email



RealRelevance eMail

Overview

Advertising

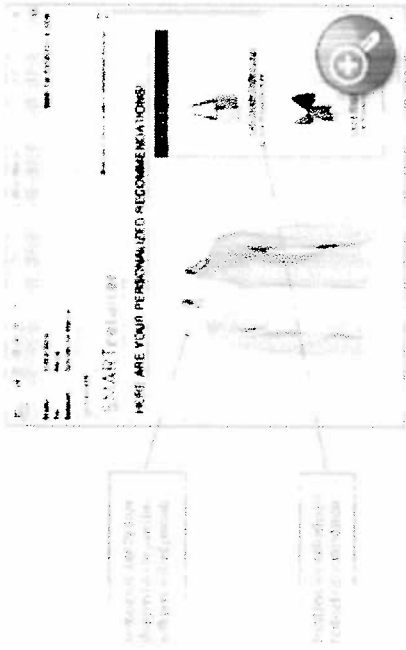
Recommendations

eMail

Working with Us

ChoiceStream RealRelevance® eMail creates new, personalized purchase opportunities that increase revenue and drive engagement.

ChoiceStream eMail enables you to deliver dynamic, personalized product recommendations in email campaigns and transaction emails. These relevant recommendations are valued by your shoppers and lift response because they are based on each shopper's individual purchase behavior and interests.



How It Works

To create personalized product recommendations that increase response, ChoiceStream uses your actual shopping data — the best predictor of future purchases — and combines it with ChoiceStream's patent-pending recommendation engine. *[Note: while we do analyze consumers' shopping data, we never collect any personally identifiable information. So PII stays private and secure.]*

You control the creative process to leverage your best-performing creative and layout. ChoiceStream takes your design and translates it into a fully functional image map that you can place directly into your email templates via a simple image tag.

The result is email marketing that drives incremental revenue and net new sales — both online and in-store — by recommending the products consumers are in-market for now.

With RealRelevance eMail, you can:

- **Deliver real-time recommendations** that ensure the best quality recommendations, from your most up-to-date catalog of in-stock items.



- **Create new opportunities to purchase** by adding scalable, personalized merchandising and promotions to transaction-based emails.
- **Drive foot traffic in-store** by promoting local prices and promotions available only in your bricks-and-mortar channel.
- **Improve retention** with targeted next-sell recommendations.
- **Follow up with cart abandoners** to get them back to your store.
- **Leverage your best-performing creative** as ChoiceStream translates your artwork and layout into an image map to put into your email templates via an image tag.
- **Acquire new customers** with relevant recommendations based on each prospect's browsing and click behavior.
- **Integrate easily** into any HTML-based email template including all popular email service provider solutions.
- **Access personalization solution experts** to get your campaigns up and running quickly and help you optimize them after deployment.

Reporting Shows You What Works (and What Doesn't)

ChoiceStream's analytics capabilities provide precise insights into performance by campaign, by email type and by recommendation strategy within a campaign. Below is a partial list of the metrics available:

- Impressions / Opens
- Clickthrough rate
- Conversion rate
- Revenue per thousand emails

360° Personalization for Every Interaction with Your Brand

ChoiceStream RealRelevance Solutions can be used to personalize not just email, but virtually every interaction you have with your consumers. Use them for on-site merchandising, display advertising, search marketing, affiliate marketing, online circulars and more.

ChoiceStream is the only personalization provider with hands-on experience in all these channels as we've been personalizing recommendations for major retailers like **Zappos**, **Tesco**, **Blockbuster**, **Overstock.com** and **Borders** for years.

Contact Us

EXHIBIT E



Personalize. Recommend. Engage.

White Papers



Speak<geek>
Tech Brief



Case Studies

- Wine.com
- Burton Snowboards
 - DMinSite
- BestBuyEyeglasses
 - Walmart

The enRICH platform is a state-of-the-art solution for the next generation of eCommerce, developed by the architects of Amazon.com's recommendation technology to meet the unique needs of large scale retailers. enRICH combines the art and science of personalization into a sophisticated technology platform—powering industry leading personalization products that touch every point of the customer lifecycle—engagement, conversion and re-engagement—to drive conversion, increase revenue and build brand loyalty.

Technology

RichRelevance simultaneously deploys segmentation, product similarity and collaborative filtering to deliver a superior personalized user experience on a retailer's website – and beyond.

Ensemble Learning:

The enRICH platform is the first commercial application of Ensemble Learning. The approach is the only one that facilitates competition among 40 independent algorithms (recommendation types), wherein each makes use of different kinds of user behavior and catalog data. The enRICH platform then decides, in real time, which algorithm is best matched to a particular customer's needs at a specific place and time. In contrast, most recommendation systems leverage one highly complex algorithm for use across the entire customer base.

Personalization and wisdom of the crowds:

enRICH doesn't just depend on the wisdom of the crowds to make recommendations relevant to each customer. We also consider current and recent site activity in our recommendations, so that we serve as a real-time aid in the customer's discovery process.

Frequent re-modeling (10-15 times a day):

This means that any products recommended via the enRICH platform reflect the latest changes in inventory, merchandising, customer behavior trends, and more.

Adaptive learning:

RichRelevance's response time to real-time intent and customer microtrends is unparalleled in the industry. As customers interact with recommended products, RichRelevance's built-in feedback loops inform the system about the performance of products and recommendation types.

Integration:

The enRICH platform enables retailers to integrate data from offline transactions with existing data on individual and group behavior in order to deliver more relevant recommendation types and content. The platform can also be integrated with marketing tools like email, site navigation, ratings and reviews, and more.

Extensible platform:

RichRelevance is the only vendor to provide third-party developers with access to the data and technology necessary to create new applications that leverage consumer behavior to innovate groundbreaking new eCommerce products. Zugara, for example, has used the enRICH platform to create an augmented reality fitting room that allows shoppers to navigate through a personalized, taste-based view of clothing selected just for them. This introduces limitless possibilities for mobile and social networks that require user-based filtering and display of product catalog or ad inventories.

Industry Leading IT Infrastructure Supports Total Reliability

The design of enRICH's delivery platform is the result of collaboration between some of the industry's brightest minds—responsible for building the corporate delivery infrastructures for Qualcomm, Akamai, and

Take the {rr} Shopping Lifecycle Walk Through



Hotmail, as well as key technologies at Amazon and Overstock. The recent winner of the 2009 Intel Premier IT Knowledge Awards for innovation, RichRelevance runs six state of the art, fully redundant and geographically load-balanced data centers to ensure the enRICH platform has 100% uptime and delivers blazing fast recommendations, even during peak traffic. On the peak hour of the peak day last holiday season, we used only 25% of our capacity.

RichRelevance Dashboard

Merchandiser Controls

While the enRICH platform does all the hard work—automatically personalizing each customer's shopping experience with relevant recommendations—you, the merchandiser, have the power to control how and when items are featured by any of the enRICH products. The RichRelevance Dashboard allows merchandisers to achieve specific business objectives for individual products, brands, categories and page types, thereby "tuning" the enRICH Platform to optimize for revenue, conversion and profit. For example, retailers can easily account for high margin products, excess inventory, blackouts, product pairings, etc.

Analytics

The enRICH platform's unique architecture enables us to provide merchants with immediate, tangible feedback. Our enterprise-class site analytics tools provide precise insights into website traffic and the effectiveness of enRICH products on a retailer's site. Modeled after industry leading analytics interfaces, the tools integrate easily with any web analytics platform. The user-friendly panel offers filtering options, graphs to visually identify trends, and easy export of reports in Excel format.



Case Studies

- Wine.com
- Burton Snowboards
 - DMinSite
- BestBuyEyeglasses
 - Walmart

Brought to You from our Amazon Experts

Innovated by the former architect of Amazon's personalization strategy, RichRelevance has created a suite of six product offerings, the broadest and most scalable solution set in the industry today. RichRelevance serves more than 200 million personalized recommendations each day through a product suite with the ability to influence consumers at each stage of the buying cycle.

Built on the enRICH platform, each product is supported by merchandiser controls, a pay-for-performance business model and analytics tools that integrate easily with any web analytics platform.

Lift core KPIs by increasing engagement, driving repeat visits and building brand loyalty.

Engage your customer from the moment they arrive on your site and keep engaging them as they move through key pages of your site—all the way to purchase completion. RichRecs™, a fully hosted (SaaS) solution, recommends products based on a customer's specific behaviors and attributes. The more your customer shops and explores, the more recommendations adjust—dynamically upselling and cross-selling merchandise related to not just his/her current activity but numerous shopping behaviors, such as past purchases, browsing history and more. RichRecs thus creates personalized and intuitive navigation for shopper, enabling faster product discovery for your customer and increased conversion, sales and brand loyalty for you.

[Download the RichRecs Product Overview](#)

People Who Viewed This Laptop Also Viewed

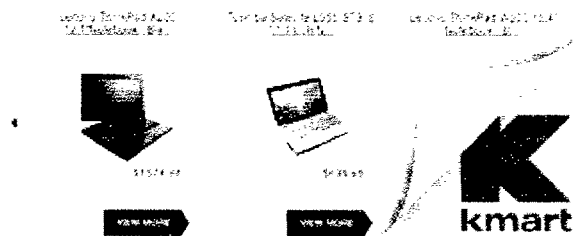


EXHIBIT F

MASSACHUSETTS INNOVATION & TECHNOLOGY EXCHANGE

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Finalists 2009

Becoming a finalist in the MITX Technology Awards is no easy feat. We are proud to recognize the innovative technology built in New England and encourage you to check out our finalists' work. Use the Sorting Fields above to view by year, category or company.

Online Advertising 2009

Project: Adroit Dynamic Display Ads
Company : Adroit Interactive

Project: RealRelevance: The Power of Personalized Display Advertising
Company : ChoiceStream

Project: Targeted content, commerce and community
Company : Emergent Discovery LLC

Project: ScanScout
Company : ScanScout, Inc.

Project: HitList from Searchandise Commerce
Company : Searchandise Commerce

Project: WordStream's Keyword Management Solution
Company : WordStream, Inc.

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Winner's Profile

ChoiceStream

Contact Info

Technology Awards

2005 - Winner - Customer Relationship
Application
The Personalization Renaissance

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About ChoiceStream

ChoiceStream delivers dynamic, personalized display ads, email and ecommerce product recommendations that increase purchases and customer engagement for today's biggest brands.

Since 2001, ChoiceStream has been helping major retailers such as **Overstock.com**, **Borders**, **Blockbuster**, **Tesco** and **AT&T** drive higher revenues with personalized ecommerce product recommendations. And, now we've brought this award-winning technology to other consumer touchpoints, such as online advertising where we **increase revenue by 3-5x** on existing campaigns and media buys.



Supercharge Your Marketing across All Sales Channels

ChoiceStream personalization can boost the performance of all your marketing, including display ads, email campaigns, affiliate marketing, online circulars, landing and product detail pages, shopping carts and more. We can even personalize consumers' offline shopping experience with personalized direct mail and merchandising.

ChoiceStream is the only personalization provider with hands-on experience in all these channels as we've been personalizing the consumer experience for major retailers for years.

Simply put, we deliver more uplift in more places than any other product recommendation technology on the market. It's time to give ChoiceStream a try and see the results for yourself.

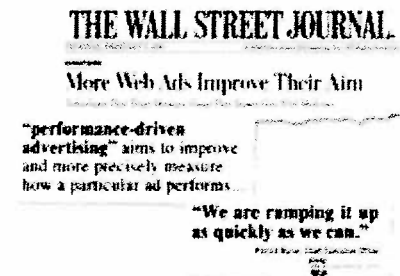


EXHIBIT G

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 3,471,575
For the mark RICHRELEVANCE
Date of Registration: July 22, 2008

ChoiceStream, Inc.,)	
)	
Petitioner,)	
)	
v.)	PETITION TO CANCEL
)	Cancellation No.:
RichRelevance, Inc.,)	
)	
Registrant.)	

AFFIDAVIT OF DOUG FEICK

I, Doug Feick, do hereby state as follows:

1. I am the EVP, Business Affairs and General Counsel ChoiceStream, Inc. of the Petitioner ChoiceStream, Inc. ("Petitioner" or "ChoiceStream"). I have personal knowledge of the facts herein.

2. I make this affidavit in connection with, and in support of ChoiceStream's Petition to Cancel the alleged mark in Registration No. 3,471,575 for RICHRELEVANCE, which is owned by RichRelevance, Inc. ("Registrant").

3. ChoiceStream, Inc. is a corporation organized and existing under the laws of Delaware, located at 210 Broadway Street, Cambridge, Massachusetts 02139. ChoiceStream is in the business of creating, marketing, distributing and selling customized cross-marketing and advertising technology and services to optimize retailers' online sales and e-commerce sites.

4. ChoiceStream owns the registered trademark REALRELEVANCE®, Registration No. 3,378,718, in International Class 35 for “[t]argeted advertising services, namely, promotion of the goods and services of others by means of a global computer network; advertising services, namely, promoting the goods and services of others by providing recommendations based on consumer’s click and purchase data; promoting the goods and services of others by providing a web site at which users can link to information pertaining to the goods and services offered by advertisers; dissemination of advertising matter; dissemination of advertising matter for others via the Internet.” This registration with a date of first use of January 29, 2006 was granted by the United States Patent and Trademark Office on July 21, 2009.

5. ChoiceStream has received industry recognition and awards for its innovative and revolutionary advertising and marketing technology. In 2005, ChoiceStream won the Massachusetts Innovation and Technology Exchange (“MITX”) for Customer Relationship technology for its innovative one-to-one personalization and recommendation technology. Also in 2009, ChoiceStream was again recognized by MITX for its REALRELEVANCE® targeted advertising product which creates personalized display ads and landing pages for each consumer. As a result of the ChoiceStream’s distribution and promotional efforts, and by virtue of the excellence of the products and services sold under the REALRELEVANCE® mark and the valuable reputation and goodwill associated with the mark, the REALRELEVANCE® mark is well known in the United States.

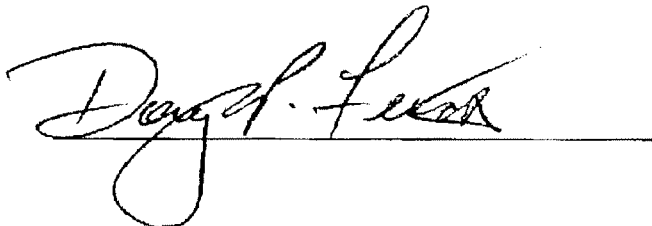
6. I am familiar with certain key personnel of the Applicant, RichRelevance, Inc. In particular, David Selinger, Applicant’s Chief Executive Officer and Co-Founder, and Tyler Kohn, Applicant’s Vice President of Engineering and Co-Founder were both paid consultants with ChoiceStream. Selinger and Kohn assisted in developing cross-marketing technology and

services for ChoiceStream during the period of August 2006 through May 2007. Both Selinger and Kohn were exposed to ChoiceStream's products and services created, marketed, distributed and sold in interstate commerce under the trademark REALRELEVANCE®.

7. On or about November 2008, January 2009, February 2009, and October 2009, I had discussions with Selinger, Todd Pearson, Applicant's Chief Customer Officer, and/or Bill Growney, Applicant's General Counsel, by telephone to discuss the strong likelihood of confusion between the REALRELEVANCE® trademark and the alleged mark RICHRELEVANCE in Registration No. 3,471,575. In particular, we discussed the potential for injury and confusion to ChoiceStream given that Registrant markets and sells products and services under the alleged mark RICHRELEVANCE to the same customers and industries as those who purchase and/or use the products under the mark REALRELEVANCE®.

8. It is my belief that the continued use by the Registrant of the alleged mark in RICHRELEVANCE will result in irreparable damage to ChoiceStream's reputation and goodwill, since consumers are likely to attribute the source of the Registrant's services to the Petitioner.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 11 DAY OF JANUARY 2010.

A handwritten signature in black ink, appearing to read "Doug Feick", is written over a horizontal line.

Doug Feick